
CHAPTER 17

JUDICIAL RETENTION SCHEDULES

Administrative Rule 7

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Purpose

The purpose of [Ind. Administrative Rule 7](#) is to provide an orderly procedure for the preservation and disposition of court records while protecting both public and private rights. [Frequently asked questions](#) about the rule are published to the Division website. See <http://www.courts.in.gov/admin/pubs/admin7faq.html>.

Important Considerations

- Ind. Administrative Rule 7 is mandatory for each clerk of court, judge and other court officer, including probation departments.
- The requirements of Ind. Administrative Rule 7 must be considered prior to proceeding with conversion of court records under [Ind. Administrative Rule 6](#), which provides standards for storage of documents.
- Records listed under the rule that do not have continuing official, administrative or legal value, but may have continuing research value, may be transferred to a local repository with the joint approval of the Division of State Court Administration and the Indiana Commission on Public Records.
- Each clerk of court is cautioned that only those records authorized for destruction may be destroyed. Records selected for destruction must be those as fully described in the applicable retention schedule.

Default Judgments

Civil cases, of any of the categories found in [Ind. Administrative Rule 8\(A\)\(3\)](#), including Civil Collection and Small Claim cases, may be closed (disposed or taken off docket) in a number of ways, including, (1) Dismissal [by plaintiff or by Court under [Ind. Trial Rule 41\(E\)](#)]; (2) through a judgment, including a default judgment. A notice of bankruptcy or filing of a bankruptcy discharge does not remove a case from the docket. In this instance, the plaintiff should file a dismissal.

Application of the appropriate retention schedule in Rule 7 depends upon the nature of the disposition. A dismissal of a case takes it “off docket” and under the retention schedule the case file (retaining the Chronological Case Summary as a permanent record) is destroyed two years after the order of dismissal. However, when there is a judgment in favor of the plaintiff (or defendant), including a default judgment, this judgment is not subject to a dismissal.

[Ind. Small Claims Rule 11](#)(D) requires the trial court clerk to notify the plaintiff that the judgment, including interest, has been paid in full, and permits the trial court clerk to release the judgment. Under Ind. Administrative Rule 7, retention schedule 85-5.1-05R, if such a release is filed, small claims case files may be destroyed five years after the release of judgment.

However, a corresponding provision does not exist when a judgment has been fully paid under civil case designations, including the CC (civil collection) category. In this situation, the judgment is entered into the judgment docket as required by statute and [Ind. Trial Rule 67](#)(B). Additionally, any partial or total satisfaction of the judgment must be “entered in the records with the judgment” by the trial court clerk.

In dealing with bankruptcy cases, it is suggested that you proceeded cautiously. First, some bankruptcy notices do not provide the trial court clerk with the trial court case number and party names and it is not possible to know with certainty what specific cases the bankruptcy filing has stayed. Second, some bankruptcy courts provide trial court clerks with “blanket” lists of discharges, such that the trial court clerk cannot be certain that a specific case has been discharged by the federal court. Thus, we recommend, especially in civil collection cases, erring on the side of conservative action and suggest retention of these cases for ten years.

We recommend that civil collection and small claim case files having a judgment, including a default judgment or a discharge in bankruptcy, be retained for ten years.

Body Attachments

The statute covering body attachments is [Ind. Code 34-47-4](#) “Contempt Citations and Writs of Attachments.” [Ind. Code 34-47-4-2](#) deals with “body attachments.” It is our opinion that a writ will expire if removed by the court, or upon expiration or final disposition of the case. For small claim cases, that would mean destruction ten years after the date of the last entry in the case.

We recommend that a judge issuing a writ of attachments specify a date of expiration in the body of the writ, so the writ itself has its own retention period. Such language might include a statement that “this writ of body attachment will expire one year after the date of its issuance.”

Easily Search Retention Schedules Online

On paper, the list of retention schedules can be difficult to reference, especially because they are organized in a single hierarchy. As a result, the Division has published the table of retention schedules to the Indiana Courts website for easy searching. By default, the site lists all schedules organized in the typical hierarchy, but you can filter the list by jurisdiction and case type (if available); you can sort the table; and you can conduct a keyword search. Access the online retention schedules at: <https://mycourts.in.gov/ar7>.

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